Lumber and Mill Employers Association *and* Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union Local No. 42, United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Case 20-CA-16290

October 22, 1982

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

On June 2, 1982, Administrative Law Judge Jay R. Pollack issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed limited exceptions[1] and an answering brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order, as modified herein.[2]

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below, and hereby orders that the Respondent, Lumber and Mill Employers Association, San Mateo, California, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as so modified:

1. Substitute the following for paragraph 1(a):

"(a) Refusing to bargain collectively with Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union Local No. 42, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, by refusing to supply the above-mentioned Unions with requested information which is relevant to their functions as the exclusive bargaining representatives of employees in the following appropriate unit:

> All employees covered under the terms of the 1981-1984 collective bargaining agreement between Lumber and Mill Employers Association and Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union No. 42, United Brotherhood of Carpenters and Joiners of America, AFL-CIO."

2. Substitute the following for paragraph 1(b):

"(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act."

3. Substitute the attached notice for that of the Administrative Law Judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

> WE WILL NOT refuse to bargain collectively with Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union Local No. 42, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, by refusing, upon request, to furnish information which is necessary and relevant for the Unions' use in negotiating, policing, and administering collective-bargaining agreements as the exclusive bargaining representative of employees in the following appropriate unit:
>
> > All employees covered under the terms of the 1981-1984 collective bargaining agreement between Lumber and Mill Employers Association and Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union No. 42, United Brotherhood of Carpenters and Joiners of America, AFL-CIO.

[1] In response to the General Counsel's exceptions, we shall modify the recommended Order to include a description of the collective-bargaining unit and shall also modify the notice to specify the information to be furnished the Unions upon request.

[2] We disavow any reliance by the Administrative Law Judge on the court of appeals decision in *N.L.R.B.* v. *Associated General Contractors of California, Inc.*, 633 F.2d 766 (9th Cir. 1980), to the extent that that decision is inconsistent with Board precedent. See *Iowa Beef Packers, Inc.*, 144 NLRB 615, 616 (1963).

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them in Section 7 of the Act.

WE WILL, upon request, furnish the Unions with a copy of those portions of our bylaws which grant us authority to bargain collectively for our members, and a list of the names and addresses of our members, excluding sustaining members, performing work of the type covered by the parties' 1981–84 agreement and not already included in "Appendum A" of the 1981–84 agreement.

LUMBER AND MILL EMPLOYERS ASSOCIATION

DECISION

STATEMENT OF THE CASE

JAY R. POLLACK, Administrative Law Judge: I heard this case in San Francisco, California, on March 30, 1982. Based upon an unfair labor practice charge filed on June 2, 1981,[1] and an amended charge filed on July 28 by Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union, Local No. 42, United Brotherhood of Carpenters and Joiners of America, AFL-CIO (the Unions), the Acting Regional Director for Region 20 of the National Labor Relations Board issued a complaint and notice of hearing on July 31 against Lumber and Mill Employers Association (Respondent). The complaint alleges in substance that Respondent—acting in its capacity as a multiemployer bargaining representative—violated Section 8(a)(5) and (1) of the National Labor Relations Act, as amended, by refusing to furnish the Unions with the following requested information: a copy of Respondent's bylaws and a copy of Respondent's roster of employer-members who perform work covered by its collective-bargaining agreement with the Unions.

All parties were given full opportunity to appear, to introduce relevant evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Based upon the entire record and from my observation of the demeanor of the witnesses, I make the following:

FINDINGS OF FACT AND CONCLUSIONS

I. JURISDICTION

Respondent is a multiemployer association composed of employers engaged in the milling of lumber and the manufacture of lumber-related products, which exists for the purpose, *inter alia*, of representing its employer-members in negotiating and administering collective-bargaining agreements with various labor organizations, including the Unions.

During calendar year 1980, the employer-members of Respondent purchased and received at their California facilities goods and materials valued in excess of $50,000 from other enterprises located within the State of California, each of which other enterprises received the said goods and materials directly from points outside the State of California. Accordingly, it admits, and I find, Respondent to be an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. LABOR ORGANIZATIONS

The complaint alleges, the answer admits, and I find that the Unions are labor organizations within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Facts*

As discussed above, Respondent is a multiemployer association which represents employers engaged in the milling of lumber and the manufacture of lumber-related products. The Unions and Respondent have been party to a series of collective-bargaining agreements covering the employees of Respondent's employer-members, the most recent of which is effective from May 1, 1981, to May 1, 1984.[2] The instant case arose during the negotiation of the 1981–84 agreement.

Prior to the expiration of their 1978–81 agreement, Respondent and the Unions commenced negotiations for a succeeding agreement.[3] By letter dated March 8, prior to the first negotiation session, Respondent submitted to the Unions a list of 53 employers whom Respondent purported to represent in the upcoming contract negotiations. On April 14, a second letter was prepared, which letter deleted the name of one company from the list of employers represented by Respondent. The April 14 letter was handed to the Unions' representatives at the parties' first negotiation session on April 15.

At the April 15 session, Victor Van Bourg, attorney for the Unions, asked whether Respondent represented firms on the above list on the basis of a power of attorney or on the basis of Respondent's bylaws. Frederick W. Misakian, Respondent's executive vice president, responded that it was on the basis of Respondent's bylaws. Van Bourg responded by requesting a copy of Respondent's bylaws and a list of all employer-members of Respondent who performed work under the contract. Van Bourg indicated that this request was based upon the *AGC* case.[4] Van Bourg noted that one listed employer, Higgins Lumber Company, was only listed at its San Francisco location, although it also had a location in

[1] Unless otherwise stated, all dates hereafter refer to the year 1981.

[2] I find the following unit appropriate for the purposes of collective bargaining within the meaning of Sec. 9(b) of the Act:

All employees covered under the terms of the 1981–84 collective-bargaining agreement between Respondent and the Unions.

[3] Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 2095 was also a party to the 1978–81 agreement. However, that local union was not party to the 1981 negotiations nor the 1981–84 agreement.

[4] *Associated General Contractors of California*, 242 NLRB 891 (1979), enfd. as modified 633 F.2d 766 (9th Cir. 1980). Van Bourg represented the charging parties in the *AGC* case.

Hayward, California.[5] Misakian told Van Bourg that Respondent represented the firms based on its bylaws and that he would discuss Van Bourg's request for the bylaws with Respondent's attorney. Misakian told Van Bourg, "We certainly are hopeful of reaching an agreement, but we want to tell you that a strike against one would be deemed a strike against all." Van Bourg asked if Misakian really meant that a strike against one was a strike against all. Misakian answered yes and Van Bourg responded, "You are telling me a strike against one is a strike against all, but you won't tell me who 'all' is."[6] Misakian said that he would take the matter under advisement and discuss it with Respondent's attorney.

The parties met again on April 24. At the beginning of this meeting, Van Bourg reiterated his request for Respondent's bylaws and a complete list of Respondent's employer-members. Van Bourg again stated that he was relying on the *AGC* case. Van Bourg told Misakian that the Unions were not sure of the identity of Respondent's members and that employer-members had apparently withdrawn from membership in Respondent and joined other multiemployer associations. Further, Van Bourg expressed the concern that some companies were operating on a nonunion basis, which companies the Unions believed were connected in some manner with members of Respondent. Van Bourg told Misakian that in past negotiations the Unions had always received a complete list of Respondent's membership.[7] With regard to the bylaws, Van Bourg said the Unions wanted to make their own determination as to whether the bylaws in fact bound employer-members to the negotiations. Misakian responded that, based on advice of counsel, Respondent would not be furnishing the Unions with the requested bylaws or membership roster.

On April 29, Robert M. Cassel, Respondent's attorney, wrote Van Bourg stating, *inter alia*:

> . . . since there is no issue in negotiations to which the information you are seeking appears to be relevant nor any dispute with respect to such information, LAMEA is declining, at this time, to furnish it to the above union.
>
> If, however, the information you request becomes arguably relevant to the negotiations or to any pending contractual disputes between the parties, LAMEA will reconsider its denial of your request and advise you accordingly.

On April 30, Van Bourg wrote Cassel alleging that Misakian had given Cassel incorrect information regarding the request for information. Van Bourg then stated that, in view of the changes in Respondent's membership and staff, he had requested Respondent's bylaws and a list of Respondent's members not on the list submitted by Misakian. Van Bourg further stated that he had fully explained the relevance of the Unions' request to Misakian.

On May 2, the Unions commenced a strike against C. Markus Hardware, listed as a firm represented by Respondent in the lists of March 8 and April 14.[8] Further negotiation sessions took place on May 27 and 29 and June 18. At the June 18 session, Van Bourg repeated his request for a complete list of Respondent's members and for a copy of Respondent's bylaws. Misakian reaffirmed Respondent's refusal to supply the information.

On June 23, Van Bourg wrote Cassel stating the following reasons for the Unions' request for Respondent's bylaws and a list of all those members who perform work covered by the agreement whose names were not present on the previously submitted lists:

> 1. There has been tremendous fluctuation in the identity of members of LAMEA with many defections, many employers quitting, some members advising they were not members even though they were on the Roster and contained on the original LAMEA Roster given.
>
> 2. I specifically asked whether members of LAMEA would be bound to the Agreement by virtue of a power of attorney or the By-Laws. We were told they would be bound by virtue of the language of the By-Laws, that is, by an agreement between the LAMEA member and LAMEA and its members. We are entitled to know what the language is that you believe binds them so we can verify it for ourselves legally. In other words, we must be able to determine whether that language is sufficient to bind them to the negotiations or whether we might face a situation under which we execute an Agreement and have numerous employers trying to walk away from the Agreement that does not bind them.
>
> 3. There are approximately 150 [sic] LAMEA members on the Roster which was not given to us until almost the expiration date of the contract. It would be impossible under those circumstances, and still is impossible, to verify membership.
>
> 4. It is obvious that the Roster of employer firms is also important to determine problems such as double-breasting,[9] avoidance of contract and to de-

[5] No serious discussion of Higgins Lumber's two locations took place during contract negotiations. However, there is currently a pending grievance concerning the application of the agreement to Higgins Lumber's Hayward location.

[6] Misakian testified that Respondent has three categories of membership: regular members, service members, and sustaining members. Regular members are those for whom Respondent provides labor relations services, such as contract negotiations and representation in grievance matters. According to Misakian, service members are not represented in labor relations matters but subscribe to Respondent's bulletins and participate in its workers' compensation and group health insurance programs. Sustaining members are persons or firms that give gratuitous contributions to Respondent. Misakian was not familiar with the identity of the sustaining members. According to Van Bourg, the Unions were not aware of the different categories of membership.

[7] Misakian had become Respondent's executive vice president in March and, therefore, was involved as Respondent's chief negotiator for the first time.

[8] C. Markus Hardware was not included as a member firm in the 1981–84 agreement.

[9] See *AGC*, 242 NLRB at 892, fn. 5:

> The term double-breasted is used to describe contractors who operate two companies, one unionized and the other nonunionized or open-shop. Depending on the underlying facts and circumstances of each case, the employees of both constituent companies may be held

Continued

termine questions of interpretation and application of the contract.

We are not asking for names of members who do not perform work in the industry; we are only asking for the names of those employers who do perform work in the industry whose names do not appear on the Roster. We are not aware of different classes of members in the LAMEA By-Laws and for that reason it is also important that we see the By-Laws as well as the Roster.

We are asking for those precise reasons which were ruled germane in the AGC case, and we are not trying to go beyond the AGC case.

On July 10, Cassel answered Van Bourg's letter, denying the relevancy of the requested information. Cassel again took the position that, if the requested information became "genuinely relevant" to the issues raised in negotiations or contractual grievances between Respondent and the Unions, Respondent would furnish "whatever information it possessed that was relevant to the scope of the specific issues raised." On July 20, Van Bourg wrote Cassel alleging that Cassel had misconstrued the Unions' request and that Misakian had not given Cassel the correct facts.

In late July, the parties reached agreement on the 1981–84 collective-bargaining agreement. Respondent requested that the Unions withdraw the instant unfair labor charge. However, the Unions refused to withdraw the charge and continued to request the subject information. The preamble to the 1981–84 agreement contains the following language:

PREAMBLE

This Agreement is made and entered into by and between the Lumber and Mill Employers Association, representing and on behalf of those of its member firms in the counties of Alameda, Contra Costa, Marin, San Benito, Santa Clara, San Francisco, and San Mateo whose employees are legally represented by one of the signatory Unions (firms bound by this Agreement at the date of the signing are listed on the applicable addenda, and firms subsequently joining the Association whose employees are legally represented by the Union shall come under this Agreement upon notice to the appropriate Union from the Association that such firm has become a party to this Agreement), each of said firms being hereinafter referred to as the Employer and Millmen Locals 42, 262, and 550, affiliated with the Bay Counties District Council of Carpenters or the Santa Clara Valley District Council of Carpenters, each of which are affiliated with the Millmen's 46 Counties Conference Board, chartered by the United Brotherhood of Carpenters and Joiners of America, each of said Local Unions being hereinafter referred to as the Union. The geographical application of this Agreement shall be extended to other counties in Northern California in accordance with the provisions of Section 1 hereof or otherwise by agreement of the parties hereto.

Attached to the agreement as "Appendum 'A'" is a list of the names and addresses of 31 employer-members of Respondent bound by the agreement.[10]

B. *Contentions of the Parties*

The General Counsel contends that the requested information is presumptively relevant to the Unions' performance as exclusive bargaining representative and, in the alternative, that the information is potentially relevant to the Unions' performance of negotiation and enforcement of its bargaining agreement. In any event, the General Counsel contends that the Unions demonstrated the relevancy of the requested information and, therefore, that Respondent violated Section 8(a)(5) and (1) of the Act by not furnishing the information to the Unions.

Respondent first contends that the issue is now moot because the parties agreed in their 1981–83 agreement to the identity of those employers bound to the contract. Thus, Respondent argues that the agreement "answers the Unions' articulated need for the requested information." Second, Respondent argues that the Unions failed to establish the relevancy of the requested information and, therefore, that Respondent had no obligation to furnish the requested information.

C. *Analysis and Conclusions*

It is well settled that an employer has a statutory obligation to provide a union, on request, with relevant information the union needs for the proper performance of its duties as a collective-bargaining representative. *N.L.R.B.* v. *Acme Industrial Co.*, 385 U.S. 432, 435–436 (1967); *Detroit Edison Co.* v. *N.L.R.B.*, 440 U.S. 301 (1979). In determining whether an employer is obligated to supply particular information, the question is only whether there is a "probability that the desired information [is] relevant, and that it would be of use to the union in carrying out its statutory duties and responsibilities." *N.L.R.B.* v. *Acme Industrial Co., supra* at 437. As the Supreme Court has stated the disclosure obligation is measured by a liberal "discovery-type standard not a trial-type standard, of relevance. *Ibid.* Where the requested information deals with information pertaining to employees in the unit which goes to the core of the employer-employee relationship, said information is "presumptively relevant." *Emeryville Research Center, Shell Development Company, a division of Shell Oil Co.* v. *N.L.R.B.*, 441 F.2d 880 (9th Cir. 1971). Where the information is pre-

to constitute a single appropriate bargaining unit or the employees of each may be held to form separate units. In the former case, the collective-bargaining agreement covering the employees of the unionized firm may be held to cover the employees of the nonunion firm as well; or the employer may be ordered to bargain on behalf of both firms with the union which had represented the unionized portion of such a double-breasted operation. See, for example, *Don Burgess Construction Corporation*, 227 NLRB 765 (1977); *R. L. Sweet Lumber Company*, 207 NLRB 529 (1973), enfd. 515 F.2d 785 (10th Cir. 1975), cert. denied 423 U.S. 986.

[10] As noted, at the commencement of the negotiations there were 52 employers listed by Respondent. It appears that during the negotiations certain employers signed interim agreements with the Unions and, as a result, were expelled from membership in Respondent. No other explanation for the decrease in employer membership appears in the record.

sumptively relevant, the employer has the burden of proving the lack of relevance. *Prudential Insurance Company of America* v. *N.L.R.B.*, 412 F.2d 77 (2d Cir. 1969). "[B]ut where the request is for information with respect to matters occurring outside the unit, the standard is somewhat narrower . . . and relevance is required to be somewhat more precise . . . . The obligation is not unlimited. Thus where the information is plainly irrelevant to any dispute there is no duty to provide it." *Ohio Power Company*, 216 NLRB 987, 991 (1975); *Doubarn Sheet Metal, Inc.*, 243 NLRB 821, 823 (1979). Thus, where the requested information deals with matters outside the bargaining unit, the union must establish the relevancy and necessity of its request for information. *San Diego Newspaper Guild, Local No. 95 of the Newspaper Guild, AFL–CIO, CLC [Union-Tribune Publishing Co.]* v. *N.L.R.B.*, 548 F.2d 863 (9th Cir. 1977).

The *AGC* case also involved multiemployer/multiunion bargaining. In that case, the Carpenters requested that the AGC supply complete membership rosters. The Board found that one of the principal reasons for the request was the Carpenters fear that the AGC's actions had fostered growth in the number of open-shop employers and the volume of nonunion construction, and that, as a result thereof, some employer-members of the AGC had attempted to escape their contractual obligations by creating double-breasted or *alter ego* operations. Thus, the Carpenters needed the information to facilitate inquiry into the question whether some of AGC's open-shop members were, in fact, bound by the AGC-Carpenters collective-bargaining agreement. The AGC had determined, entirely by itself, that the open-shop members were not bound by the collective-bargaining agreement notwithstanding that they had some element of common ownership and/or common officers with firms bound by the contract. The Board found that the Carpenters was entitled to have equal access to the same data so that they could intelligently evaluate the facts and, thereby, reach their own conclusions on whether or not to pursue remedies for possible contract violations to seek provisions in the contracts under negotiation which would serve to preserve the integrity of their respective bargaining units. The Board concluded by finding that the information sought was relevant and necessary to the Carpenters administration of their bargaining agreement, to the intelligent assessment of the advisability of filing grievances or taking other remedial action, and to the formulation of related bargaining proposals in the then-pending negotiations.

The Court of Appeals for the Ninth Circuit found that the information requested by the Carpenters Union was not presumptively relevant and, thus, the union had the initial burden to show relevancy. The court found that the evidence of an increase in open-shop members, AGC sponsorship of seminars on conversion to open shops, and common ownership of some union and open-shop contractors established the relevancy of the requested information. The court then found that it was not necessary for the Carpenters to show actual violations of the contract:

> It is sufficient that the information sought is relevant to possible violations where the union has established a reasonable basis to suspect such violations have occurred. Actual violations need not be established in order to show relevancy. [633 F.2d at 771.]

The court further found that it was not essential that the information fully resolve the question whether a contract violation had occurred. It was sufficient under a liberal discovery standard that the roster would aid in the Carpenters investigation of contract violations. The court found that the record established the relevancy of a roster of open-shop and open-shop specialty members only and it, therefore, modified the Board's order to include only those membership classifications. The Board had ordered AGC to furnish the Carpenters with its full membership list.

Applying the above legal principles to the instant case, it appears that the identity of the members of Respondent was a real concern of the Unions. Van Bourg expressed the concern that there had been a change in the membership of Respondent. Former members of Respondent had joined other bargaining groups. Misakian indicated that Respondent's claim of representation was based on its bylaws. Van Bourg requested the bylaws so that the Unions could make their own determination as to whether the bylaws were sufficient to bind a member to the agreement being negotiated. Misakian put the identity of the employer-members in issue when he stated that "a strike against one was a strike against all." Van Bourg requested information so that the Unions could make their own determination of who constituted "all." During negotiations the identity of the employer-members was still very much a live issue as Respondent's membership decreased from 66 in the 1978–81 agreement, to 52 at the start of negotiations, and finally to 31 at the time the agreement was reached.

In his correspondence, Van Bourg asserted that the information was relevant to the Unions' determination of problems such as double-breasting, avoidance of the contract and application of the contract. Apparently this argument has two points: (1) members of Respondent not listed in the agreement may be bound to the agreement by virtue of the bylaws; and (2) members of Respondent may be obligated to apply the agreement to locations other than those listed in the agreement. As noted above, since the filing of the instant charge, the Unions have filed a grievance concerning the application of the agreement to a second location of Higgins Lumber Company.

Under these circumstances, I find that, during the negotiations, the bylaws and membership list of Respondent were relevant to the Unions' determination of the identity of the employer-members of Respondent which was itself necessary in order to determine the scope of the bargaining unit. The exchange of a broad range of information would seem to further the statutory policy of facilitating meaningful collective bargaining. *Press Democrat Publishing Co.* v. *N.L.R.B.*, 629 F.2d 1320, 1325 (9th Cir. 1980). See also *San Diego Newspaper Guild, supra* at 548 F.2d at 866–867; *Proctor & Gamble Mfg. Co.* v. *N.L.R.B.*, 603 F.2d 1310, 1315 (8th Cir. 1979). The alter-

native, having the Unions question each employer whether it would be bound by the agreement, is simply not effective nor conducive to a stable collective-bargaining relationship. In addition, during the life of the agreement, under the rationale of *AGC, supra*, the requested information is relevant to the Unions' intelligent assessment of the advisability of filing grievances or taking other remedial action regarding the nonapplication of the agreement to certain members or certain locations of member-employers of Respondent.

The question remains as to whether the refusal to furnish the bylaws and membership roster has become moot by virtue of execution of the 1981–84 bargaining agreement. While the agreement on its face appears to put to rest the question of the identity of Respondent's employer-members, I do not consider the case moot.[11] Respondent does not contend that the Unions waived their right to the information. The Unions clearly indicated that the agreement did not resolve their need for the information. Rather, Respondent contends that the information is no longer relevant. I reject Respondent's arguments for two reasons. First, Respondent's refusal to furnish the information, upon demand, has not been remedied. Respondent should not profit by its delay in furnishing the relevant information during negotiations. Second, the Unions still seek the information for its probable and potential use in determining the advisability of grievances or other action over the nonapplication of the agreement to certain firms or locations. Evidence of a contract violation is not essential; it is sufficient under a liberal discovery standard that the bylaws and roster would aid in the Unions' investigation of possible contract violations.

I find nothing in the record which privileges Respondent's failure to provide the relevant information. There is no evidence that the Unions' request was not made in good faith. Disclosure of the relevant portions of the bylaws or the membership roster would not impose an onerous burden on Respondent. Finally, Respondent has proposed no practicable alternative to disclosure. Accordingly, I find that Respondent's refusal to furnish relevant information requested by the Unions was violative of Section 8(a)(5) and (1) of the Act.

IV. THE REMEDY

Having found that Respondent engaged in unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and that it take certain affirmative action to effectuate the policies of the Act.

As mentioned above, in the *AGC* case, the Court modified the Board's Order and ordered the AGC to furnish a roster of open-shop and open-shop specialty members rather than a full membership roster. Thus, a narrow order will be recommended here. Accordingly, Respondent will be ordered, upon request, to furnish the Unions with the requested information heretofore found relevant and necessary to contract negotiations and contract administration, specifically (1) a copy of those portions of Respondent's bylaws which purportedly grant Respondent authority to bargain collectively for its members; and (2) a list of the names and addresses of Respondent's members, excluding sustaining members, performed work of the type covered by the parties' 1981–84 agreement and not already included in "Appendum 'A'" of the 1981–84 agreement.

CONCLUSIONS OF LAW

1. Respondent Lumber and Mill Employers Association is an enployer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Unions, Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union, Local No. 42, United Brotherhood of Carpenters and Joiners of America, AFL–CIO, are labor organizations within the meaning of Section 2(5) of the Act.

3. By refusing to furnish the above-named Unions with information necessary and relevant to the negotiation and administration of their collective-bargaining agreement with Respondent, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[12]

The Respondent, Lumber and Mill Employers Association, San Mateo, California, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Millmen, Cabinetmakers, Industrial Carpenters Union Local No. 550; Millmen and Industrial Carpenters Local No. 262; and Millmen, Cabinetmakers and Industrial Carpenters Union, Local No. 42, United Brotherhood of Carpenters and Joiners of America, AFL–CIO, by refusing to supply relevant information upon request.

(b) In any like or related manner violating Section 8(a)(5) and (1) of the Act.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Furnish, upon request, to said Unions a copy of the relevant portions of its bylaws and the names and addresses of its employer-members, as more fully explained in the remedy section of this Decision.

[11] In labor cases, cessation of the challenged conduct does not assure that the underlying controversy will not be reopened or that the challenged conduct will not reoccur. *The Edward J. DeBartolo Corporation* v. *N.L.R.B.*, 662 F.2d 264, 267, fn. 2 (4th Cir. 1981); see also *N.L.R.B.* v. *Raytheon Co.*, 398 U.S. 25 (1970); *Pet, Incorporated* v. *N.L.R.B.*, 641 F.2d 545, fn. 1 (8th Cir. 1981).

[12] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

(b) Post at its offices, and at the offices of all its employer-members, copies of the attached notice marked "Appendix."[13] Copies of said notice on forms provided by the Regional Director for Region 20, after being duly signed by Respondent's representative, shall be posted by Respondent and by each of its employer-members immediately upon receipt thereof, and be maintained by them for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employer-members' employees are customarily posted. Reasonable steps shall be taken by Respondent and its employer-members to ensure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 20, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

[13] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."